

As Reported by the House Ways and Means Committee

135th General Assembly

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Am. H. B. No. 105

Representative Thomas, J.

Cosponsors: Representatives Dean, Young, B., Seitz, Roemer, Merrin, Hillyer, Lear



A BILL

To amend sections 718.05, 718.27, 718.85, and 1
718.89 of the Revised Code to modify the law 2
regarding extensions for filing municipal income 3
tax returns and to limit penalties for late 4
filings. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 718.05, 718.27, 718.85, and 6
718.89 of the Revised Code be amended to read as follows: 7

Sec. 718.05. (A) An annual return with respect to the 8
income tax levied by a municipal corporation shall be completed 9
and filed by every taxpayer for any taxable year for which the 10
taxpayer is liable for the tax. If the total credit allowed 11
against the tax as described in division (D) of section 718.04 12
of the Revised Code for the year is equal to or exceeds the tax 13
imposed by the municipal corporation, no return shall be 14
required unless the municipal ordinance or resolution levying 15
the tax requires the filing of a return in such circumstances. 16

(B) If an individual is deceased, any return or notice 17
required of that individual shall be completed and filed by that 18

decedent's executor, administrator, or other person charged with 19
the property of that decedent. 20

(C) If an individual is unable to complete and file a 21
return or notice required by a municipal corporation in 22
accordance with this chapter, the return or notice required of 23
that individual shall be completed and filed by the individual's 24
duly authorized agent, guardian, conservator, fiduciary, or 25
other person charged with the care of the person or property of 26
that individual. 27

(D) Returns or notices required of an estate or a trust 28
shall be completed and filed by the fiduciary of the estate or 29
trust. 30

(E) No municipal corporation shall deny spouses the 31
ability to file a joint return. 32

(F) (1) Each return required to be filed under this section 33
shall contain the signature of the taxpayer or the taxpayer's 34
duly authorized agent and of the person who prepared the return 35
for the taxpayer, and shall include the taxpayer's social 36
security number or taxpayer identification number. Each return 37
shall be verified by a declaration under penalty of perjury. 38

(2) A tax administrator may require a taxpayer who is an 39
individual to include, with each annual return, amended return, 40
or request for refund required under this section, copies of 41
only the following documents: all of the taxpayer's Internal 42
Revenue Service form W-2, "Wage and Tax Statements," including 43
all information reported on the taxpayer's federal W-2, as well 44
as taxable wages reported or withheld for any municipal 45
corporation; the taxpayer's Internal Revenue Service form 1040 46
or, in the case of a return or request required by a qualified 47

municipal corporation, Ohio form IT-1040; and, with respect to 48
an amended tax return or refund request, any other documentation 49
necessary to support the refund request or the adjustments made 50
in the amended return. An individual taxpayer who files the 51
annual return required by this section electronically is not 52
required to provide paper copies of any of the foregoing to the 53
tax administrator unless the tax administrator requests such 54
copies after the return has been filed. 55

(3) A tax administrator may require a taxpayer that is not 56
an individual to include, with each annual net profit return, 57
amended net profit return, or request for refund required under 58
this section, copies of only the following documents: the 59
taxpayer's Internal Revenue Service form 1041, form 1065, form 60
1120, form 1120-REIT, form 1120F, or form 1120S, and, with 61
respect to an amended tax return or refund request, any other 62
documentation necessary to support the refund request or the 63
adjustments made in the amended return. 64

A taxpayer that is not an individual and that files an 65
annual net profit return electronically through the Ohio 66
business gateway or in some other manner shall either mail the 67
documents required under this division to the tax administrator 68
at the time of filing or, if electronic submission is available, 69
submit the documents electronically through the Ohio business 70
gateway. The department of taxation shall publish a method of 71
electronically submitting the documents required under this 72
division through the Ohio business gateway on or before January 73
1, 2016. The department shall transmit all documents submitted 74
electronically under this division to the appropriate tax 75
administrator. 76

(4) After a taxpayer files a tax return, the tax 77

administrator may request, and the taxpayer shall provide, any 78
information, statements, or documents required by the municipal 79
corporation to determine and verify the taxpayer's municipal 80
income tax liability. The requirements imposed under division 81
(F) of this section apply regardless of whether the taxpayer 82
files on a generic form or on a form prescribed by the tax 83
administrator. 84

(G) (1) (a) Except as otherwise provided in this chapter, 85
each individual income tax return required to be filed under 86
this section shall be completed and filed as required by the tax 87
administrator on or before the date prescribed for the filing of 88
state individual income tax returns under division (G) of 89
section 5747.08 of the Revised Code. The taxpayer shall complete 90
and file the return or notice on forms prescribed by the tax 91
administrator or on generic forms, together with remittance made 92
payable to the municipal corporation or tax administrator. No 93
remittance is required if the amount shown to be due is ten 94
dollars or less. A municipal corporation shall not require a 95
qualifying employee whose income consists exclusively of exempt 96
income described in division (C) (20) (b) or (c) of section 718.01 97
of the Revised Code to file a return under this section. 98

(b) Except as otherwise provided in this chapter, each 99
annual net profit return required to be filed under this section 100
by a taxpayer that is not an individual shall be completed and 101
filed as required by the tax administrator on or before the 102
fifteenth day of the fourth month following the end of the 103
taxpayer's taxable year. The taxpayer shall complete and file 104
the return or notice on forms prescribed by the tax 105
administrator or on generic forms, together with remittance made 106
payable to the municipal corporation or tax administrator. No 107
remittance is required if the amount shown to be due is ten 108

dollars or less. 109

(2) (a) Any taxpayer that has duly requested an automatic 110
six-month extension for filing the taxpayer's federal income tax 111
return shall automatically receive an extension for the filing 112
of a municipal income tax return. The extended due date of the 113
municipal income tax return shall be the fifteenth day of the 114
tenth month after the last day of the taxable year to which the 115
return relates. 116

(b) A taxpayer that has not requested or received a six- 117
month extension for filing the taxpayer's federal income tax 118
return may request that the tax administrator grant the taxpayer 119
a six-month extension of the date for filing the taxpayer's 120
municipal income tax return. If the request is received by the 121
tax administrator on or before the date the municipal income tax 122
return is due, the tax administrator shall grant the taxpayer's 123
requested extension. 124

(c) An extension of time to file under division (G) (2) of 125
this section is not an extension of the time to pay any tax due 126
unless the tax administrator grants an extension of that date. 127

(3) If the tax commissioner extends for all taxpayers the 128
date for filing state income tax returns under division (G) of 129
section 5747.08 of the Revised Code, a taxpayer shall 130
automatically receive an extension for the filing of a municipal 131
income tax return. The extended due date of the municipal income 132
tax return shall be the same as the extended due date of the 133
state income tax return. 134

(4) If the tax administrator considers it necessary in 135
order to ensure the payment of the tax imposed by the municipal 136
corporation in accordance with this chapter, the tax 137

administrator may require taxpayers to file returns and make 138
payments otherwise than as provided in this section, including 139
taxpayers not otherwise required to file annual returns. 140

(5) If a taxpayer receives an extension for the filing of 141
a municipal income tax return under division (G) (2), (3), or (4) 142
of this section, the tax administrator shall not make any 143
inquiry or send any notice to the taxpayer with regard to the 144
return on or before the date the taxpayer files the return or on 145
or before the extended due date to file the return, whichever 146
occurs first. 147

If a tax administrator violates division (G) (5) of this 148
section, the municipal corporation shall reimburse the taxpayer 149
for any reasonable costs incurred to respond to such inquiry or 150
notice, up to one hundred fifty dollars. 151

Division (G) (5) of this section does not apply if the tax 152
administrator has actual knowledge that the taxpayer failed to 153
file for a federal extension as required to receive the 154
extension under division (G) (2) (a) of this section or failed to 155
file for an extension under division (G) (2) (b) of this section. 156

(6) To the extent that any provision in this division 157
conflicts with any provision in section 718.052 of the Revised 158
Code, the provision in that section prevails. 159

(H) (1) For taxable years beginning after 2015, a municipal 160
corporation shall not require a taxpayer to remit tax with 161
respect to net profits if the amount due is less than ten 162
dollars. 163

(2) Except as provided in division (H) (3) of this section, 164
any taxpayer not required to remit tax to a municipal 165
corporation for a taxable year pursuant to division (H) (1) of 166

this section shall file with the municipal corporation an annual net profit return under division (F) (3) of this section. 167
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(3) A municipal corporation shall not require a person to file a net profit return under this section if the person's income consists exclusively of exempt income described in division (C) (20) (a) of section 718.01 of the Revised Code. 169
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(I) (1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that date by United States mail to the tax administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service. 173
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(2) If a payment under this chapter is made by electronic funds transfer, the payment shall be considered to be made on the date of the timestamp assigned by the first electronic system receiving that payment. 186
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(J) The amounts withheld by an employer, the agent of an employer, or an other payer as described in section 718.03 of the Revised Code shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient by the municipal corporation, unless the amounts withheld were not remitted to the municipal corporation and the recipient colluded with the employer, agent, or other payer in 190
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connection with the failure to remit the amounts withheld. 197

(K) Each return required by a municipal corporation to be 198
filed in accordance with this section shall include a box that 199
the taxpayer may check to authorize another person, including a 200
tax return preparer who prepared the return, to communicate with 201
the tax administrator about matters pertaining to the return. 202
The return or instructions accompanying the return shall 203
indicate that by checking the box the taxpayer authorizes the 204
tax administrator to contact the preparer or other person 205
concerning questions that arise during the examination or other 206
review of the return and authorizes the preparer or other person 207
only to provide the tax administrator with information that is 208
missing from the return, to contact the tax administrator for 209
information about the examination or other review of the return 210
or the status of the taxpayer's refund or payments, and to 211
respond to notices about mathematical errors, offsets, or return 212
preparation that the taxpayer has received from the tax 213
administrator and has shown to the preparer or other person. 214

(L) The tax administrator of a municipal corporation shall 215
accept for filing a generic form of any income tax return, 216
report, or document required by the municipal corporation in 217
accordance with this chapter, provided that the generic form, 218
once completed and filed, contains all of the information 219
required by ordinance, resolution, or rules adopted by the 220
municipal corporation or tax administrator, and provided that 221
the taxpayer or tax return preparer filing the generic form 222
otherwise complies with the provisions of this chapter and of 223
the municipal corporation ordinance or resolution governing the 224
filing of returns, reports, or documents. 225

(M) When income tax returns, reports, or other documents 226

require the signature of a tax return preparer, the tax 227
administrator shall accept a facsimile of such a signature in 228
lieu of a manual signature. 229

(N) (1) As used in this division, "worksite location" has 230
the same meaning as in section 718.011 of the Revised Code. 231

(2) A person may notify a tax administrator that the 232
person does not expect to be a taxpayer with respect to the 233
municipal corporation for a taxable year if both of the 234
following conditions apply: 235

(a) The person was required to file a tax return with the 236
municipal corporation for the immediately preceding taxable year 237
because the person performed services at a worksite location 238
within that municipal corporation. 239

(b) The person no longer provides services in the 240
municipal corporation and does not expect to be subject to the 241
municipal corporation's income tax for the taxable year. 242

The person shall provide the notice in a signed affidavit 243
that briefly explains the person's circumstances, including the 244
location of the previous worksite location and the last date on 245
which the person performed services or made any sales within the 246
municipal corporation. The affidavit also shall include the 247
following statement: "The affiant has no plans to perform any 248
services within the municipal corporation, make any sales in the 249
municipal corporation, or otherwise become subject to the tax 250
levied by the municipal corporation during the taxable year. If 251
the affiant does become subject to the tax levied by the 252
municipal corporation for the taxable year, the affiant agrees 253
to be considered a taxpayer and to properly register as a 254
taxpayer with the municipal corporation if such a registration 255

is required by the municipal corporation's resolutions, 256
ordinances, or rules." The person shall sign the affidavit under 257
penalty of perjury. 258

(c) If a person submits an affidavit described in division 259
(N) (2) of this section, the tax administrator shall not require 260
the person to file any tax return for the taxable year unless 261
the tax administrator possesses information that conflicts with 262
the affidavit or if the circumstances described in the affidavit 263
change. Nothing in division (N) of this section prohibits the 264
tax administrator from performing an audit of the person. 265

Sec. 718.27. (A) As used in this section: 266

(1) "Applicable law" means this chapter, the resolutions, 267
ordinances, codes, directives, instructions, and rules adopted 268
by a municipal corporation provided such resolutions, 269
ordinances, codes, directives, instructions, and rules impose or 270
directly or indirectly address the levy, payment, remittance, or 271
filing requirements of a municipal income tax. 272

(2) "Income tax," "estimated income tax," and "withholding 273
tax" means any income tax, estimated income tax, and withholding 274
tax imposed by a municipal corporation pursuant to applicable 275
law, including at any time before January 1, 2016. 276

(3) A "return" includes any tax return, report, 277
reconciliation, schedule, and other document required to be 278
filed with a tax administrator or municipal corporation by a 279
taxpayer, employer, any agent of the employer, or any other 280
payer pursuant to applicable law, including at any time before 281
January 1, 2016. 282

(4) "Federal short-term rate" means the rate of the 283
average market yield on outstanding marketable obligations of 284

the United States with remaining periods to maturity of three 285
years or less, as determined under section 1274 of the Internal 286
Revenue Code, for July of the current year. 287

(5) "Interest rate as described in division (A) of this 288
section" means the federal short-term rate, rounded to the 289
nearest whole number per cent, plus five per cent. The rate 290
shall apply for the calendar year next following the July of the 291
year in which the federal short-term rate is determined in 292
accordance with division (A)(4) of this section. 293

(6) "Unpaid estimated income tax" means estimated income 294
tax due but not paid by the date the tax is required to be paid 295
under applicable law. 296

(7) "Unpaid income tax" means income tax due but not paid 297
by the date the income tax is required to be paid under 298
applicable law. 299

(8) "Unpaid withholding tax" means withholding tax due but 300
not paid by the date the withholding tax is required to be paid 301
under applicable law. 302

(9) "Withholding tax" includes amounts an employer, any 303
agent of an employer, or any other payer did not withhold in 304
whole or in part from an employee's qualifying wages, but that, 305
under applicable law, the employer, agent, or other payer is 306
required to withhold from an employee's qualifying wages. 307

(B)(1) This section applies to the following: 308

(a) Any return required to be filed under applicable law 309
for taxable years beginning on or after January 1, 2016; 310

(b) Income tax, estimated income tax, and withholding tax 311
required to be paid or remitted to the municipal corporation on 312

or after January 1, 2016. 313

(2) This section does not apply to returns required to be 314
filed or payments required to be made before January 1, 2016, 315
regardless of the filing or payment date. Returns required to be 316
filed or payments required to be made before January 1, 2016, 317
but filed or paid after that date shall be subject to the 318
ordinances or rules, as adopted before January 1, 2016, of the 319
municipal corporation to which the return is to be filed or the 320
payment is to be made. 321

(C) Each municipal corporation levying a tax on income may 322
impose on a taxpayer, employer, any agent of the employer, and 323
any other payer, and must attempt to collect, the interest 324
amounts and penalties prescribed under division (C) of this 325
section when the taxpayer, employer, any agent of the employer, 326
or any other payer for any reason fails, in whole or in part, to 327
make to the municipal corporation timely and full payment or 328
remittance of income tax, estimated income tax, or withholding 329
tax or to file timely with the municipal corporation any return 330
required to be filed. 331

(1) Interest shall be imposed at the rate described in 332
division (A) of this section, per annum, on all unpaid income 333
tax, unpaid estimated income tax, and unpaid withholding tax. 334

(2) (a) With respect to unpaid income tax and unpaid 335
estimated income tax, a municipal corporation may impose a 336
penalty equal to fifteen per cent of the amount not timely paid. 337

(b) With respect to any unpaid withholding tax, a 338
municipal corporation may impose a penalty not exceeding fifty 339
per cent of the amount not timely paid. 340

(3) With respect to returns other than estimated income 341

tax returns, a municipal corporation may impose a penalty ~~of not~~ 342
exceeding twenty-five dollars for each failure to timely file 343
each return, regardless of the liability shown thereon ~~for each~~ 344
~~month, or any fraction thereof, during which the return remains~~ 345
~~unfiled regardless of the liability shown thereon. The penalty~~ 346
~~shall not exceed one hundred fifty dollars for each failure,~~ 347
except that a municipal corporation shall abate or refund the 348
penalty assessed on a taxpayer's first failure to timely file a 349
return after the taxpayer files that return. 350

(D) (1) With respect to the income taxes, estimated income 351
taxes, withholding taxes, and returns, no municipal corporation 352
shall impose, seek to collect, or collect any penalty, amount of 353
interest, charges, or additional fees not described in this 354
section. 355

(2) With respect to the income taxes, estimated income 356
taxes, withholding taxes, and returns not described in division 357
(A) of this section, nothing in this section requires a 358
municipal corporation to refund or credit any penalty, amount of 359
interest, charges, or additional fees that the municipal 360
corporation has properly imposed or collected before January 1, 361
2016. 362

(E) Nothing in this section limits the authority of a 363
municipal corporation to abate or partially abate penalties or 364
interest imposed under this section when the tax administrator 365
determines, in the tax administrator's sole discretion, that 366
such abatement is appropriate. 367

(F) By the thirty-first day of October of each year the 368
municipal corporation shall publish the rate described in 369
division (A) of this section applicable to the next succeeding 370
calendar year. 371

(G) The municipal corporation may impose on the taxpayer, 372
employer, any agent of the employer, or any other payer the 373
municipal corporation's post-judgment collection costs and fees, 374
including attorney's fees. 375

Sec. 718.85. (A) (1) For each taxable year, every taxpayer 376
shall file an annual return. Such return, along with the amount 377
of tax shown to be due on the return less the amount paid for 378
the taxable year under section 718.88 of the Revised Code, shall 379
be submitted to the tax commissioner, on a form and in the 380
manner prescribed by the commissioner, on or before the 381
fifteenth day of the fourth month following the end of the 382
taxpayer's taxable year. 383

(2) The remittance shall be made payable to the treasurer 384
of state and in the form prescribed by the tax commissioner. If 385
the amount payable with the tax return is ten dollars or less, 386
no remittance is required. 387

(B) The tax commissioner shall immediately forward to the 388
treasurer of state all amounts the commissioner receives 389
pursuant to sections 718.80 to 718.95 of the Revised Code. The 390
treasurer shall credit such amounts to the municipal net profit 391
tax fund which is hereby created in the state treasury. 392

(C) (1) Each return required to be filed under this section 393
shall contain the signature of the taxpayer or the taxpayer's 394
duly authorized agent and of the person who prepared the return 395
for the taxpayer, and shall include the taxpayer's 396
identification number. Each return shall be verified by a 397
declaration under penalty of perjury. 398

(2) (a) The tax commissioner may require a taxpayer to 399
include, with each annual tax return, amended return, or request 400

for refund filed with the commissioner under sections 718.80 to 401
718.95 of the Revised Code, copies of any relevant documents or 402
other information. 403

(b) A taxpayer that files an annual tax return 404
electronically through the Ohio business gateway or in another 405
manner as prescribed by the tax commissioner shall either submit 406
the documents required under this division electronically as 407
prescribed at the time of filing or, if electronic submission is 408
not available, mail the documents to the tax commissioner. The 409
department of taxation shall publish a method of electronically 410
submitting the documents required under this division on or 411
before January 1, 2019. 412

(3) After a taxpayer files a tax return, the tax 413
commissioner may request, and the taxpayer shall provide, any 414
information, statements, or documents required to determine and 415
verify the taxpayer's municipal income tax. 416

(D) (1) (a) Any taxpayer that has duly requested an 417
automatic extension for filing the taxpayer's federal income tax 418
return shall automatically receive an extension for the filing 419
of a tax return with the commissioner under this section. The 420
extended due date of the return shall be the fifteenth day of 421
the tenth month after the last day of the taxable year to which 422
the return relates. 423

(b) A taxpayer that has not requested or received a six- 424
month extension for filing the taxpayer's federal income tax 425
return may request that the commissioner grant the taxpayer a 426
six-month extension of the date for filing the taxpayer's 427
~~municipal income~~ tax return. If the commissioner receives the 428
request on or before the date the ~~municipal income~~ tax return is 429
due, the commissioner shall grant the taxpayer's extension 430

request. 431

(c) An extension of time to file under division (D) (1) of 432
this section is not an extension of the time to pay any tax due 433
unless the tax commissioner grants an extension of that date. 434

(2) If the commissioner considers it necessary in order to 435
ensure payment of a tax imposed in accordance with section 436
718.04 of the Revised Code, the commissioner may require 437
taxpayers to file returns and make payments otherwise than as 438
provided in this section, including taxpayers not otherwise 439
required to file annual returns. 440

(3) If a taxpayer receives an extension for the filing of 441
a tax return under division (D) (1) or (2) of this section, the 442
commissioner shall not make any inquiry or send any notice to 443
the taxpayer with regard to the return on or before the date the 444
taxpayer files the return or on or before the extended due date 445
to file the return, whichever occurs first. 446

If the commissioner violates division (D) (3) of this 447
section, the commissioner shall reimburse the taxpayer for any 448
reasonable costs incurred to respond to such inquiry or notice, 449
up to one hundred fifty dollars. Such reimbursement shall be 450
paid from the general revenue fund. 451

Division (D) (3) of this section does not apply if the 452
commissioner has actual knowledge that the taxpayer failed to 453
file for a federal extension as required to receive the 454
extension under division (D) (1) (a) of this section or failed to 455
file for an extension under division (D) (1) (b) of this section. 456

(E) Each return required to be filed in accordance with 457
this section shall include a box that the taxpayer may check to 458
authorize another person, including a tax return preparer who 459

prepared the return, to communicate with the tax commissioner 460
about matters pertaining to the return. The return or 461
instructions accompanying the return shall indicate that by 462
checking the box the taxpayer authorizes the commissioner to 463
contact the preparer or other person concerning questions that 464
arise during the examination or other review of the return and 465
authorizes the preparer or other person only to provide the 466
commissioner with information that is missing from the return, 467
to contact the commissioner for information about the 468
examination or other review of the return or the status of the 469
taxpayer's refund or payments, and to respond to notices about 470
mathematical errors, offsets, or return preparation that the 471
taxpayer has received from the commissioner and has shown to the 472
preparer or other person. 473

(F) When income tax returns or other documents require the 474
signature of a tax return preparer, the tax commissioner shall 475
accept a facsimile or electronic version of such a signature in 476
lieu of a manual signature. 477

Sec. 718.89. (A) In addition to any other penalty imposed 478
by sections 718.80 to 718.95 or Chapter 5703. of the Revised 479
Code, the following penalties shall apply: 480

(1) If a taxpayer required to file a tax return under 481
sections 718.80 to 718.95 of the Revised Code fails to make and 482
file the return within the time prescribed, including any 483
extensions of time granted by the tax commissioner, the 484
commissioner may impose a penalty not exceeding twenty-five 485
dollars ~~per month or fraction of a month, for each month or~~ 486
~~fraction of a month elapsing between the due date, including~~ 487
~~extensions of the due date, and the date on which the return is~~ 488
~~filed. The aggregate penalty, per instance, under this division~~ 489

~~shall not exceed one hundred fifty dollars, except that the~~ 490
~~commissioner shall abate or refund the penalty assessed on a~~ 491
~~taxpayer's first failure to timely file a return after the~~ 492
~~taxpayer files that return.~~ 493

(2) If a person required to file a tax return 494
electronically under sections 718.80 to 718.95 of the Revised 495
Code fails to do so, the commissioner may impose a penalty not 496
to exceed the following: 497

(a) For each of the first two failures, five per cent of 498
the amount required to be reported on the return; 499

(b) For the third and any subsequent failure, ten per cent 500
of the amount required to be reported on the return. 501

(3) If a taxpayer that has made the election allowed under 502
section 718.80 of the Revised Code fails to timely pay an amount 503
of tax required to be paid under this chapter, the commissioner 504
may impose a penalty equal to fifteen per cent of the amount not 505
timely paid. 506

(4) If a taxpayer files what purports to be a tax return 507
required by sections 718.80 to 718.95 of the Revised Code that 508
does not contain information upon which the substantial 509
correctness of the return may be judged or contains information 510
that on its face indicates that the return is substantially 511
incorrect, and the filing of the return in that manner is due to 512
a position that is frivolous or a desire that is apparent from 513
the return to delay or impede the administration of sections 514
718.80 to 718.95 of the Revised Code, a penalty of up to five 515
hundred dollars may be imposed. 516

(5) If a taxpayer makes a fraudulent attempt to evade the 517
reporting or payment of the tax required to be shown on any 518

return required under sections 718.80 to 718.95 of the Revised Code, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the tax required to be shown on the return.

(6) If any person makes a false or fraudulent claim for a refund under section 718.91 of the Revised Code, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the claim. Any penalty imposed under this division, any refund issued on the claim, and interest on any refund from the date of the refund, may be assessed under section 718.90 of the Revised Code without regard to any time limitation for the assessment imposed by division (A) of that section.

(B) For purposes of this section, the tax required to be shown on a tax return shall be reduced by the amount of any part of the tax paid on or before the date, including any extensions of the date, prescribed for filing the return.

(C) Each penalty imposed under this section shall be in addition to any other penalty imposed under this section. All or part of any penalty imposed under this section may be abated by the tax commissioner. The commissioner may adopt rules governing the imposition and abatement of such penalties.

(D) All amounts collected under this section shall be considered as taxes collected under sections 718.80 to 718.95 of the Revised Code and shall be credited and distributed to municipal corporations in the same proportion as the underlying tax liability is required to be distributed to such municipal corporations under section 718.83 of the Revised Code.

Section 2. That existing sections 718.05, 718.27, 718.85,

and 718.89 of the Revised Code are hereby repealed. 548

Section 3. The amendment by this act of sections 718.05, 549
718.27, 718.85, and 718.89 of the Revised Code applies to tax 550
returns required to be filed for taxable years ending on or 551
after January 1, 2023. 552